

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HENRY PEREZ,

Plaintiff,

v.

HEATHER DIAZ, *et al.*,

Defendants.

1:24-cv-00845-JLT-EPG (PC)

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT THIS ACTION
BE DISMISSED, WITHOUT PREJUDICE

OBJECTIONS, IF ANY,
DUE WITHIN THIRTY DAYS

Plaintiff Henry Perez is confined at Kern County AES Center and is proceeding *pro se* in this civil rights action. Together with his complaint, on July 22, 2024, Plaintiff filed an application to proceed *in forma pauperis* (IFP) pursuant to 28 U.S.C. § 1915. (ECF No. 2). However, the IFP application is not fully completed. Specifically, the portion of the IFP form requiring an officer at the place of Plaintiff's incarceration to certify Plaintiff's account balance and to provide a certified copy of the trust account statement showing transactions for the past six months, has not been completed. (*Id.* at 2). In addition, in the same application, Plaintiff states that he contributes \$200 per month to support his son, while denying any sources of income or cash savings. (*Id.*)

On July 25, 2024, the Court denied Plaintiff's motion to proceed IFP without prejudice. (ECF No. 4). The Court gave Plaintiff 30 days to either pay the filing fee, submit a complete IFP application with the trust account statement and explanation of the support he is providing, or file

1 a notice explaining the efforts he has made to obtain the required information. (ECF No. 4 at 2).
2 Plaintiff has not responded to that Order.

3 On September 10, 2024, the Court vacated its earlier Order, and ordered Plaintiff to
4 supplement his IFP motion instead. (ECF No. 6). The Court again gave Plaintiff 30 days to either
5 pay the filing fee, supplement his original IFP motion with the complete IFP application with the
6 trust account statement included as well as the explanation for the support he is providing, or file
7 a notice explaining the efforts he has made to obtain the required information. (ECF No. 6 at 2).
8 Again, Plaintiff failed to respond to the Court's order, and the time to do so has passed.

9 Accordingly, **IT IS RECOMMENDED** that:

- 10 1. This action be dismissed, without prejudice, for Plaintiff's failure to pay the filing fee
11 pursuant to 28 U.S.C. § 1914 or to file a completed application to proceed *in forma*
12 *pauperis* pursuant to 28 U.S.C. § 1915; and
- 13 2. The Clerk of Court be directed to close this case.
- 14 3. Alternatively, if Plaintiff files a proper *in forma pauperis* application or pays the filing
15 fee within thirty days, this Court will vacate these findings and recommendations.

16 These findings and recommendations are submitted to the United States District Judge
17 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within thirty days after
18 being served with these findings and recommendations, Plaintiff may file written objections with
19 the Court. Such a document should be captioned "Objections to Magistrate Judge's Findings and
20 Recommendations."

21 Plaintiff is advised that failure to file objections within the specified time may result in the
22 waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing
23 *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).
24 IT IS SO ORDERED.

25 Dated: **October 16, 2024**

26 /s/ Eric P. Gray
27 UNITED STATES MAGISTRATE JUDGE
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